

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

LORRAINE LEA LARUE,

Civil Action File No.

Plaintiff,

v.

WAL-MART STORES EAST, LP (DELAWARE),  
JOHN DOE 1 AND XYZ, INC.,

Defendants.

\_\_\_\_\_/

**NOTICE OF REMOVAL**

COMES NOW WAL-MART STORES EAST, LP, named Defendant in the above-captioned matter, by and through its counsel of record, within the time prescribed by law, and files this Notice of Removal, showing the Court as follows:

1.

The above-named Plaintiff filed suit against Defendant WAL-MART STORES EAST, LP in the State Court of Gwinnett County, Georgia, which is within the Atlanta Division of this Court. 28 U.S.C.A. § 90 (a)(2). Said lawsuit is styled as above and is numbered as Civil Action File No. 21-C-04819-S1. Plaintiff's claims against Defendant includes claims of negligence.

2.

Plaintiff filed the Complaint on or about July 1, 2021. Defendant WAL-MART STORES EAST, LP received service of summons and a copy of the Complaint

on July 2, 2021. Defendant WAL-MART STORES EAST, LP files this notice of Removal within thirty (30) days after service of summons and a copy of this Complaint.

3.

Defendant WAL-MART STORES EAST, LP is a Delaware limited partnership, of which WSE Management, LLC is the only general partner, and WSE Investment, LLC is the only limited partner. The sole member of WSE Management, LLC and of WSE Investment, LLC is Wal-Mart Stores East, LLC, and the sole member of Wal-Mart Stores East, LLC is Walmart Inc. Walmart Inc. is a Delaware corporation with its principal place of business in the State of Arkansas, and it was not a citizen of the State of Georgia at the time of or immediately prior to the filing and service of this lawsuit or at any time thereafter. The principal place of business for all entities mentioned in this paragraph is 708 SW 8th Street, Bentonville, AR 72716.

4.

Lorraine Lea Larue is a citizen of the State of Georgia.

5.

The citizenship of the fictitious John Doe 1 is disregarded for purposes of determining jurisdiction. 28 U.S.C. § 1441(a).

6.

The citizenship of the fictitious XYZ, Inc. is disregarded for purposes of determining jurisdiction. 28 U.S.C. § 1441(a).

7.

Complete diversity of citizenship exists between Plaintiff and Defendant.

8.

Plaintiff claims serious and painful injuries to her body and nervous system, including alleged severe injuries to her hip and right shoulder, significant physical and mental pain and suffering, personal inconvenience, past medical expenses in excess of \$46,246.07, future medical expenses, inability to lead a normal life, will continue to endure physical and mental pain and suffering and may suffer permanent medical impairment (see Complaint paragraphs 14, 17, 24 and 41). The amount in controversy, exclusive of interest and costs, exceeds \$75,000. See Hickerson v. Enter. Leasing Co. of Ga., LLC, 818 F. App'x 880, 883 (11th Cir. 2020) (affirming district court's use of judicial experience and common sense to find amount in controversy was met where the plaintiff had incurred only \$25,000 in medical expenses but sought additional unspecified damages for "serious and long lasting" injuries); Hoskins v. Wal-Mart Stores East, LP, 1:21-CV-00249-ELR (remand denied with \$49,319 in medicals); Devezin v. Wal-Mart Stores East, L.P., Case No. 1:14-CV-03721-CAP, slip op. at 2-3 (N.D. Ga. Feb. 20, 2015) (finding amount in controversy

satisfied where the plaintiff suffered “serious injuries[,]” incurred \$30,000.00 in past medical expenses, and sought additional compensation for future medical expenses, and pain and suffering); Peters v. Wal-Mart Stores East, L.P., No. 1:13-CV-76 (WLS), 2013 WL 4647379, at \*2-3 (M.D. Ga. Aug. 29, 2013) (finding amount in controversy was met where the plaintiff had incurred only \$16,522.25 in medical expenses at the time she filed her complaint, but sought additional compensation for “permanent” injuries as well as for “future medical expenses, pain and suffering”); Hart v. Wal-Mart Stores East, LP, 1:21-CV-01240-SDG (remand denied with \$49,215 in medicals).

9.

This action is removable pursuant to 28 U.S.C. §§ 1332, 1441, based on complete diversity of citizenship between Plaintiff and Defendant.

10.

Pursuant to the provisions of 28 U.S.C. § 1446, Defendant has attached as Exhibit "A" copies of all the pleadings that were provided to and served upon Defendant, including copies of all pleadings that have been filed to date in the State Court of Gwinnett County, Georgia for the above-styled case.

11.

Pursuant to 28 U.S.C. § 1446, Defendant is not required to file a removal bond.

12.

Written notice of the filing of this Notice of Removal will be given to all parties as required by 28 U.S.C. § 1446.

13.

A true and correct copy of this Notice of Removal will be filed with the Clerk of the State Court of Gwinnett County, Georgia, as required by 28 U.S.C. § 1446.

WHEREFORE, Defendant WAL-MART STORES EAST, LP prays that the above-captioned lawsuit be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger  
Howard M. Lessinger  
Georgia State Bar No. 447088

/s/ Jennie Rogers  
Jennie Rogers  
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The undersigned counsel certifies that the foregoing Notice of Removal has been prepared with one of the font and point selections approved by the court in LR 5.1B.

/s/ Howard M. Lessinger  
Howard M. Lessinger

**CERTIFICATE OF SERVICE**

This is to certify that on July 10, 2021, I electronically filed a **NOTICE OF REMOVAL** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to attorneys of record.

McLAIN & MERRITT, P.C.

/s/ Howard M. Lessinger  
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Georgia State Bar No. 447088  
Attorneys for Defendant  
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